

Remarks:

The disclosure is objected to due to misspelling of "torx". Paragraph [0020] has been amended to correct the identified typographical errors.

The drawings are objected to for not showing the torx shaped portion of claims 10 and 15. Claims 10 and 15 have been canceled.

Claims 1, 3, 5-8, 10-12, and 22-23 remain in this application. Claims 2, 4, 9, and 13-21 have been canceled.

Claims 10 and 15 are objected to due to misspelling of "torx". Claims 10 and 15 have been canceled.

Claims 22 and 23 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 33 and 34 of copending Application No. 10/993,661. Claims 22 and 23 have been amended to more particularly claim Applicant's invention and no longer claim the same invention as claims 33 and 34 of 10/993,661.

Claims 1, 2, 4-7, 8-19, 22, and 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims in copending Application No. 10/993,661, some further in view of McCue et al. (US 6,506,216). A terminal disclaimer is being filed along with this amendment to overcome the nonstatutory obviousness-type double patenting rejections.

Claims 1, 3, 4, 8-11 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sutter et al. (US6,102,951).

With regard to amended claim 1, Sutter fails to disclose "the superior end of the elongated member defining a superiorly facing, internally threaded, socket". Sutter further fails to disclose "a tibio-femoral insert removably engaged with the superior surface of the tibial plate; and a screw

extending through the tibio-femoral insert and threadably engaged with the threaded socket of the elongated member to retain the tibio-femoral insert on the tibial plate”. Sutter does not disclose a tibio-femoral insert or a screw for attaching such an insert at all and consequently does not disclose how such an insert would be retained on a tibial plate. Sutter’s anchoring element (2) is further covered by a separate pressure generating screw (7) in every embodiment that would prevent an attachment screw from reaching the superior end of his anchoring element (2) even if his anchoring element (2) had a superiorly facing, internally threaded, socket (which it doesn’t). Thus, amended claim 1 does not read on Sutter and is therefore allowable over Sutter.

It is noted that the pressure generating screw (7) in each of Sutter’s disclosed embodiments and claims is central to the function of his device in producing a metallic seal.

Claims 3, 8, and 10 depend from amended claim 1 and are allowable for the same reasons as amended claim 1.

Claims 4, 9, 11, and 19 have been canceled.

Claims 1-6, 8-9, 11-14 and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Delfosse (US 5,658,341).

With regard to amended claim 1, Delfosse fails to disclose “the superior end of the elongated member defining a superiorly facing, internally threaded, socket; a tibio-femoral insert removably engaged with the superior surface of the tibial plate; and a screw extending through the tibio-femoral insert and threadably engaged with the threaded socket of the elongated member to retain the tibio-femoral insert on the tibial plate.” Delfosse’s polyethylene plate is snap fit to a peripheral rim of the plate [3:27-32] and has no screw extending through it and into engagement with the pin (3). Thus, amended claim 1 does not read on Delfosse and is allowable over Delfosse.

Claims 3, 5, 6, 8, and 12 depend from amended claim 1 and are allowable for the same reasons as amended claim 1.

With regard to amended claim 22, Delfosse fails to disclose “inserting a screw through the tibio-femoral insert and into threaded engagement with a socket formed in the elongated member to retain the tibio-femoral insert on the tibial plate”. Delfosse’s polyethylene plate is snap fit to a peripheral rim of the plate [3:27-32] and has no screw extending through it and into engagement with the pin (3). Thus, amended claim 22 does not read on Delfosse and is allowable over Delfosse.

Amended claim 23 depends from amended claim 22 and is allowable for the same reasons as amended claim 22. Amended claim 23 is further allowable over Delfosse because Delfosse fails to disclose “wherein extending an elongated member through the tibial plate includes threadably engaging the elongated member with the tibial plate”.

Claims 2, 4, 9, 11-14, and 19-21 have been canceled.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutter et al. (US 6,102,951) in view of Delfosse (US 5,658,341).

Claim 2 has been canceled.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Delfosse (US 5,658,341) in view of McCue et al. (US 6,506,216).

Claim 7 depends from amended claim 1 and is allowable for the same reasons as amended claim 1.

Claims 10, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delfosse (US 5,658,341).

Claim 10 depends from amended claim 1 is allowable for the same reasons as amended claim 1.

Claims 15 and 16 have been canceled.

Claims 5-7 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutter et al. (US 6,102,951) in view of McCue et al. (US 6,506,216).

Claims 5-7 and 12 depend from amended claim 1 and are allowable for the same reasons as amended claim 12.

Claims 13-17 have been canceled.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutter et al. (US 6,102,951) and McCue et al. (6,506,216) as applied to claim 17, further in view of Delfosse (US 5,658,341).

Claim 18 has been canceled.

Applicant believes that the claims remaining in this case are in condition for allowance and respectfully requests that a timely Notice of Allowance be issued in this case. Examiner is encouraged to contact Applicant by telephone with any questions about the content of this amendment or to discuss allowable subject matter to facilitate placing this case in condition for allowance.

Respectfully submitted,

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